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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,502	01/17/2006	Aloys Wobben	970054.488USPC	6380
500 7590 01/09/2009 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 5400 SEATTLE, WA 98104				
EXAMINER				
EDGAR, RICHARD A				
ART UNIT		PAPER NUMBER		
3745				
MAIL DATE		DELIVERY MODE		
01/09/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,502

Applicant(s)

WOBBEN, ALOYS

Examiner

Richard Edgar

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2008 under 37 CFR 1.114.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-20 and 22-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-18, 20 and 22-42 is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-13 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/14/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: DE19748716 translation

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 14 November 2008 has been entered.

Examiner Note

As previously made of record, the undersigned examiner is not the original examiner of the instant application. Upon further review of the application and the many claims, it has been determined that a cited reference is applicable to some of the claims. Also, it is noted that the reference to Weitkamp (U.S. Patent No. 6,940,186 B2, DE 102 19 664, EP 1 359 321 A1) fails to have a date preceding Applicants' priority date of 18 December 2002.

Claim Objections

Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 12 offers no further

limiting structure to the claim from which it depends. Claim 13 offers no further limiting structure to the claim from which it depends.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-10, 12-13 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent DE 197 48 716 C1 (Böhmeke hereinafter).

With respect to claim 1, Böhmeke teaches a rotor blade for a wind power plant having a hub and a rotor (FIG. 1-3), comprising: a rotor blade connector (FIG. 1-3) adapted for connection to the hub of the rotor of the wind power plant; a blade tip (FIG. 1-3 and 5) disposed at an opposite end of the rotor blade from the rotor blade connector; and an electrical conductor 10 laid over the length of the rotor blade, the electrical conductor beginning at the rotor blade connector and extending in a longitudinal direction of the rotor blade to proximate the blade tip and back to the rotor blade connector (see FIG. 1-3 and 5).

For claim 7, Böhmeke show in FIG. 4a, the electrical conductor connected to the blade spar.

As to claim 8, the electrical conductor is enclosed in the support structure (see FIG. 4a).

As for claim 9, the accompanying translation specifies that the carbon fiber belts can be replaced, therefore teaching the conductors are releasable from the support structure.

With respect to claim 10, the electrical conductors are provided in the support structure in the longitudinal direction (See FIG. 1-5).

For claim 12, the conductor has an inherent surface roughness.

With respect to claim 13, the electrical conductor is configured to couple to a plug connector in a region of the rotor blade connection.

Finally, with respect to claim 19, the rotor blade is part of a wind power plant as is clearly recognized.

The claim language "the electrical conductor *configured to couple to a detector configured to detect an electrical resistance of the electrical conductor* [emphasis added]," is deemed non-limiting because the language does not limit the claim to a particular structure. Alternatively, as the apparatus of Böhmeke is inherently capable of being coupled to a detector configured to detect an electrical resistance of the electrical conductor, the reference teaches the language in question. The examiner has concluded the inherent capability because both Applicant's invention and Böhmeke are electrical cables running the span of a wind turbine blade. Applicant's denial of the conclusion without persuasive arguments would seemingly render the claim non-enabled as how could one skilled in the art deem Applicant's conductor configured to couple to a detector configured to detect an electrical resistance of the electrical conductor and conclude that Böhmeke's conductor is incapable of doing so?

Claims 3 and 13 similarly use non-limiting language "configured to..."

The claim language "predetermined" of claim 12 offers no patentably distinguishing structure when merely used with "surface roughness." How is this distinguished over a stock material's surface roughness?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent DE 197 48 716 C1 (Böhmeke hereinafter).

Claim 3 requires a plurality of additional electrical conductors. The additional conductors on Böhmeke serve to further heat the blade and provide a further electrical discharge path. No new and unexpected result is produced from the duplication of the electrical conductor and thus the limitations have no patentable significance. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Claim 4 requires the additional conductors to extend a distance shorter than the length of the rotor blade. FIG. 1-3 and 5 of Böhmeke clearly show the length of the conductors 10 being shorter than the rotor blade longitudinal length.

With respect to claim 6, Böhmeke show in FIG. 5 the electrical conductors connected. Thus one having ordinary skilled in the art at the time the invention was

made would have found it obvious to connect the additional conductors to the original conductor for the purpose of providing an interconnected conduction path.

For claim 11, aluminum is absent from the metallic conductor teaching of Böhmeke, but one skilled in the art of conduction would have found it obvious at the time the invention was made to use aluminum as the Böhmeke conductor since aluminum is a reliable conductor and relatively cheap compared to alternative conductors (e.g. copper).

Allowable Subject Matter

Claims 14-18, 20, 22-42 are allowed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Edgar whose telephone number is (571) 272-4816. The examiner can normally be reached on Monday thru Friday, 7 am- 5 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard Edgar/
Primary Examiner, Art Unit 3745